

## **REMARKS**

The Applicant has filed the present Response in reply to the outstanding Official Action of September 29, 2004, and the Applicant believes the Response to be fully responsive to the Official Action for reasons set forth below in greater detail.

At the onset, the Applicant would like to note that Claims 11 and 12 have been cancelled herewith. Additionally, page 4 of the specification has been amended accordingly, as suggested by the Examiner.

In the Outstanding Official Action, the Examiner rejected Claims 1-12 under 35. U.S.C § 103(a) as being unpatentable over Kim U.S. Patent No 5,999,534, in view of Ikeda et al. (U.S. Patent No. 6,711,167) (hereinafter "Ikeda").


Applicant submits that Ikeda cannot be used as a prior art reference against the subject application. Ikeda is assigned to NEC Electronic Corporation and the present application is assigned to NEC Corporation. This reference only qualifies as 102(e) art. § 103(c) disqualifies a reference from being a prior art reference under § 102(e) if the reference and the application was subject to assignment to a common owner at the time of the invention. NEC Electronics Corporation was established as a separate entity from NEC Corporation on November 1, 2002, as a dedicated semiconductor manufacturer. The subject invention was invented prior to this date of establishment of NEC Electronics Corporation. Therefore, both the application and

patent were subject to assignment to the same entity **at the time of the invention of the subject application.**

For all the foregoing reasons, the Applicant respectfully requests the Examiner to withdraw the rejections of Claims 1-10 pursuant to 35 U.S.C. § 103(a).

In conclusion, the Applicant believes that the above-identified application is in condition for allowance and henceforth respectfully solicits the Examiner to allow the application. If the Examiner believes a telephone conference might expedite the allowance of this application, the Applicant respectfully requests that the Examiner call the undersigned, Applicant's attorney, at the following telephone number: (516) 742-4343.

Respectfully submitted,



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